

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:11-CR-146-1H(2)

UNITED STATES OF AMERICA,)
)
 v.)
)
 WILLIE LAZZLO HENDERSON,)
)
 Defendant.)

ORDER

This matter is before the court on defendant's motion to suppress. Following an evidentiary hearing on October 20, 2011, United States Magistrate Judge David W. Daniel entered a memorandum and recommendation (M&R) on November 4, 2011, recommending denial of the motion. The defendant has objected, and the government has responded to the objections. This matter is ripe for adjudication.

Under Rule 72(b) of the Federal Rules of Civil Procedure, a District Judge "shall make a de novo determination . . . of any portion of [the M&R] to which specific written objection has been made. . . ." Fed. R. Civ. P. 72(b); see also Local Civil Rule 72.4(b)(1) (E.D.N.C.).

Defendant filed several written objections: objections to the facts as found by the magistrate judge, objections to the conclusion that the defendant was not under arrest prior to the

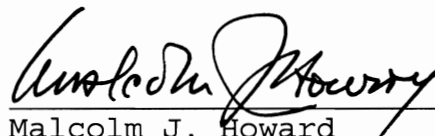
seizure of the gun involved in this case, and objections to the reasonable suspicion standard applied by the magistrate judge.

The court has carefully reviewed each specific objection made by defendant. The court finds these objections to be without merit. The court agrees with the magistrate judge's findings of fact as well as his conclusions of law and the proper application of the reasonable suspicion standard in this matter. The court finds, as the magistrate judge did, that the requisite reasonable suspicion to conduct an investigatory Terry stop and frisk of defendant was present in this case.

In addition to reviewing defendant's objections and finding them to be without merit, this court has conducted a full and careful review of the M&R and other documents of record. Having done so, the court hereby finds that the recommendation of the magistrate judge is, in all respects, in accordance with the law and should be approved.

Accordingly, the court hereby adopts the recommendation of the magistrate judge as its own; and, for the reasons stated therein, the defendant's motion to suppress is hereby DENIED.

This 28th day of December 2011.



Malcolm J. Howard
Senior United States District Judge

At Greenville, NC
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